APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,194	07/24/2003	Craig William Fellenstein	AUS920030365US1	1807

37945 7590 10/15/2010		

DUKE W. YEE
YEE AND ASSOCIATES, P.C.
P.O. BOX 802333
DALLAS, TX 75380

EXAMINER
FEARER, MARK D

ART UNIT	PAPER NUMBER
2443	

NOTIFICATION DATE	DELIVERY MODE
10/15/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptonotifs@yeeiplaw.com

	Application No.	Applicant(s)
	10/626,194	FELLENSTEIN ET AL.
Office Action Summary	Examiner	Art Unit	
	MARK D. FEARER	2443	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 September 2010*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *28-44* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *28-44* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1. Applicant's Amendment filed 28 September 2010 is acknowledged.

2. Claims 1-27 are cancelled.

3. Claims 28-44 are new.

4. Final Action of 07 May 2007 is withdrawn.

5. Claims 28-44 are pending in the present application.

6. This action is made FINAL.

7. In view of the appeal brief filed on 03 March 2010, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final)or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid. A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

Claim Rejections - 35 USC § 102

8.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9.   Claims 28-44 are rejected under 35 U.S.C. 102(e) as being anticipated by

Matsliach et al. (US 6879994 B1).

Consider claim 28. Matsliach et al. discloses a method comprising:

detecting, by a processor, a plurality of messaging system events;

recording, by the processor, the plurality of messaging system events in a

database;

compiling from the plurality of messaging system events, by the processor, a

plurality of times for signing in and signing out of a target, an average time signed on

each day of the target, and a plurality of messages sent and received by the target;

displaying, by the processor, the plurality of times for signing in and signing out of

the target, the average time signed on each day of the target, and the plurality of

messages sent and received by the target; and

determining, from the plurality of times for signing in and signing out of the target,

the average time signed on each day of the target, and the plurality of messages sent

and received by the target, a best time to contact the target for a messaging session.

Matsliach et al. discloses a method of detecting a new user event, interpreted to read on the Claimed signing in time, user information transmitted to a server database, interpreted to read on the Claimed events database, determining historical usage trends, interpreted to read on the Claimed average sign-on time, and real-time hot internet spots, interpreted to read on the Claimed best contact time, and a method of displaying to the user.

"Upon detection of a new user event, process 71 continues from step 76 to step 80 wherein user computer 14 determines what type of user event has occurred. If the user has asked to change his/her user profile, process 71 continues to step 80a. The updated information is input and then transmitted to server 10 (step 80a-1). Then the information is stored both locally on user computer 14 and in a user database of server 10 (step 80a-2), after which process 71 returns to step 76." Column 13 lines 45-52; "The information is processed to determine the current "hot" Internet sites or pages at or near real-time, the popular sites on a historical basis, i.e., over the past N days or hours, various usage trends, etc." column 3 lines 40-43; "This information can be presented to users in the form of, e.g., a histogram displayed on the user's screen, and integrated with link maps, directory information, and other navigation tools." column 3 lines 43-46; "provides such usage data for display to the user" column 4 line 1.

Consider claim 29, as applied to claim 28. Matsliach et al. discloses a method further comprising:

wherein the plurality of messaging system events are detected on a messaging system that is one of an instant messaging system, an email messaging system, or an

electronic bulletin board system; and

wherein the plurality of times for signing in and signing out of the target, the average time signed on each day of the target, and the plurality of messages sent and received by the target are displayed in a statistical histogram.

Matsliach et al. discloses a method comprising a statistical histogram, an email system, a bulletin board, and an instant messaging system.

"The information is processed to determine the current "hot" Internet sites or pages at or near real-time, the popular sites on a historical basis, i.e., over the past N days or hours, various usage trends, etc. This information can be presented to users in the form of, e.g., a histogram displayed on the user's screen, and integrated with link maps, directory information, and other navigation tools." column 3 lines 40-43; "A variety of different chat or instant-messaging technologies can be used, ..." column 9 lines 30-31; "User demographics: age range (and optionally, the exact age of the user), gender, nickname, user location (state), spoken languages, occupation, zodiac sign, family status, a mood of the user, a co-branded community to which the user belongs and an e-mail address of the user." Column 6 lines 49-54; "According to the present invention, a user can leave one or more "notes" for a particular web page, as if the page contained a virtual bulletin board." column 4 lines 43-45.

Consider claim 30, as applied to claim 28. Matsliach et al. discloses a method further comprising:

disabling, by the target, a recordation of any portion of the plurality of messaging system events regarding the target.

Matsliach et al. discloses a method of enforcing a timer that restricts the status of a web page, interpreted to read on the Claimed disabling of events.

"At step 30, the system continuously monitors whether an active status of the web page currently being viewed changes (e.g. whether the user switches to a new URL or opens a new browser window and views a different page). When the active status of a current page does not change, but the user opens a new browser window, the process continues directly to step 34, discussed below. However, when the active status of the current web page changes, the process first completes step 32 wherein the system toggles the active page timer by, for example, turning off the timer for the previously viewed page and beginning a timing of the access to the newly accessed web page. In the alternative, at step 32, the active page time may simply be turned off if the user closes all open browsers." column 11 lines 4-17.

Consider claim 31, as applied to claim 28. Matsliach et al. discloses a method further comprising:

providing an access list for the target; and

recording the plurality of times for signing in and signing out of the target, the average time signed on each day of the target, and the plurality of messages sent and received by the target only in response to a person on the access list.

Matsliach et al. discloses a method of providing the status of an access list, interpreted to read on the Claimed access list, detecting a new user event, interpreted to read on the Claimed signing in time, and determining historical usage trends, interpreted to read on the Claimed average sign-on time.

"Next, server 10 determines whether the updated user information includes additional buddy list members (Step 96). If not, the process 89 continues to step 98 below. If so, process 89 continues to step 97 where server 10 determines the status of the additional users listed in the new buddy list and transmits the information to user computer 14, after which process 89 continues to step 98. At step 98, server 10 transmits a notification to user computer 14 that the updated user parameters were successfully received and stored." column 16 line 13 - column 17 line 4; "Upon detection of a new user event, process 71 continues from step 76 to step 80 wherein user computer 14 determines what type of user event has occurred. If the user has asked to change his/her user profile, process 71 continues to step 80a. The updated information is input and then transmitted to server 10 (step 80a-1). Then the information is stored both locally on user computer 14 and in a user database of server 10 (step 80a-2), after which process 71 returns to step 76." Column 13 lines 45-52; "This information can be presented to users in the form of, e.g., a histogram displayed on the user's screen, and integrated with link maps, directory information, and other navigation tools." column 3 lines 43-46; "provides such usage data for display to the user" column 4 line 1.

Consider claim 32, as applied to claim 28. Matsliach et al. discloses a method further comprising:

providing a watch list for the target; and

recording the plurality of times for signing in and signing out of the target, the

average time signed on each day of the target, and the plurality of messages sent and

received by the target only in response to an event on the watch list.

Matsliach et al. discloses a method of real-time hot pages suggested to internet

users, interpreted to read on the Claimed watch list, detecting a new user event,

interpreted to read on the Claimed signing in time, and determining historical usage

trends, interpreted to read on the Claimed average sign-on time.

"Real- time hot site information is sent to users in response to queries. The query

can be topic specific or global. For a global "all the net" query, all pages that contain

registered users, including those not in the catalog, are scanned to determine the

"hottest" pages." column 6 lines 31-46; "Upon detection of a new user event, process 71

continues from step 76 to step 80 wherein user computer 14 determines what type of

user event has occurred. If the user has asked to change his/her user profile, process

71 continues to step 80a. The updated information is input and then transmitted to

server 10 (step 80a-1). Then the information is stored both locally on user computer 14

and in a user database of server 10 (step 80a-2), after which process 71 returns to step

76." Column 13 lines 45-52; "This information can be presented to users in the form of,

e.g., a histogram displayed on the user's screen, and integrated with link maps,

directory information, and other navigation tools." column 3 lines 43-46; "provides such

usage data for display to the user" column 4 line 1.

Consider claim 33. Matsliach et al. discloses an apparatus comprising:

a computer having a processor connected to messaging system, a computer

readable memory, and a computer readable tangible storage device;

first program instructions to detect a plurality of messaging system events of a

target;

second program instructions to record the plurality of messaging system events

in a database;

third program instructions to compile from the plurality of messaging system

events a plurality of times for signing in and signing out of the target, an   average time

signed on each day of the target, and a plurality of messages sent and received by the

target; and

fourth program instructions to display the plurality of times for signing in and

signing out of the target, the average time signed on each day of the target, and the

plurality of messages sent and received by the target;

wherein the first through the fourth program instructions are stored in the

computer readable tangible storage device for execution by the processor via the

computer readable memory.

[Matsliach et al., column 3 lines 40-43 and column 13 lines 45-52]

Consider claim 34, as applied to claim 33. Matsliach et al. discloses an apparatus

further comprising:

wherein the plurality of messaging system events are detected on a messaging

system that is one of an instant messaging system, an email messaging system, or an

electronic bulletin board system; and

wherein the plurality of times for signing in and signing out of the target, the

average time signed on each day of the target, and the plurality of messages sent and

received by the target are displayed in a statistical histogram.

[Matsliach et al., column 3 lines 40-43, column 4 lines 43-45, column 6 lines 30-31 and

column 9 lines 30-31]

Consider claim 35, as applied to claim 33. Matsliach et al. discloses an apparatus

further comprising:

fifth program instructions to disable, by the target, a recordation of any portion of

the plurality of messaging system events regarding the target;

wherein the fifth program instructions are stored in the computer readable

tangible storage device for execution by the processor via the computer readable

memory.

[Matsliach et al., column 11 lines 4-17]

Consider claim 36, as applied to claim 33. Matsliach et al. discloses an apparatus

further comprising:

sixth program instructions to provide an access list for the target; and

seventh program instructions to record the plurality of times for signing in and

signing out of the target, the average time signed on each day of the target, and the

plurality of messages sent and received by the target only in response to a person on

the access list;

wherein the sixth and seventh program instructions are stored in the computer

readable tangible storage device for execution by the processor via the computer

readable memory.

[Matsliach et al., column 3 lines 40-43, column 16 line 13 – column 17 line 4, and column 3 lines 43-46]

Consider claim 37, as applied to claim 33. Matsliach et al. discloses an apparatus further comprising:

eighth program instructions to provide a watch list for the target; and

ninth program instructions to record the plurality of times for signing in and signing out of the target, the average time signed on each day of the target, and the plurality of messages sent and received by the target only in response to an event on the watch list;

wherein the eighth and ninth program instructions are stored in the computer readable tangible storage device for execution by the processor via the computer readable memory.

[Matsliach et al., column 3 lines 43-46, column 6 lines 31-46, and column 13 lines 45-52]

Consider claim 38, as applied to claim 33. Matsliach et al. discloses an apparatus further comprising:

tenth program instructions to configure the display to provide from the plurality of times for signing in and signing out of the target, the average time signed on each day of the target, and the plurality of messages sent and received by the target, a best time to contact the target for a messaging session.

[Matsliach et al., column 4 line 1]

Consider claim 39. Matsliach et al. discloses a computer program product comprising:

a computer readable storage device;

first program instructions detect a plurality of messaging system events of a target;

second program instructions to record the plurality of messaging system events in a database;

third program instructions to compile from the plurality of messaging system events a plurality of times for signing in and signing out of the target, an average time signed on each day of the target, and a plurality of messages sent and received by the target; and

fourth program instructions to display the plurality of times for signing in and signing out of the target, the average time signed on each day of the target, and the plurality of messages sent and received by the target;

wherein the first through the fourth program instructions are stored in the computer readable storage device.

[Matsliach et al., column 3 lines 40-43 and column 13 lines 45-52]

Consider claim 40, as applied to claim 39. Matsliach et al. discloses a computer program product further comprising:

wherein the plurality of messaging system events are detected on a messaging system that is one of an instant messaging system, an email messaging system, and an electronic bulletin board system; and

wherein the plurality of times for signing in and signing out of the target, the
average time signed on each day of the target, and the plurality of messages sent and
received by the target are displayed in a statistical histogram.

*[Matsliach et al., column 3 lines 40-43, column 4 lines 43-45, column 6 lines 30-31 and
column 9 lines 30-31]*

Consider claim 41, as applied to claim 39. Matsliach et al. discloses a computer
program product further comprising:

fifth program instructions to disable, by the target, a recordation of any portion of
the plurality of messaging system events regarding the target;

wherein the fifth program instructions are stored in the computer readable
tangible storage device.

[Matsliach et al., column 11 lines 4-17]

Consider claim 42, as applied to claim 39. Matsliach et al. discloses a computer
program product further comprising:

sixth program instructions to provide an access list for the target; and

seventh program instructions to record the plurality of times for signing in and
signing out of the target, the average time signed on each day of the target, and the
plurality of messages sent and received by the target only in response to a person on
the access list;

wherein the sixth and seventh program instructions are stored in the computer
readable tangible storage device.

[Matsliach et al., column 3 lines 40-43, column 16 line 13 – column 17 line 4, and

column 3 lines 43-46]

Consider claim 43, as applied to claim 39. Matsliach et al. discloses a computer

program product further comprising:

eighth program instructions to provide a watch list for the target; and

ninth program instructions to record the plurality of times for signing in and

signing out of the target, the average time signed on each day of the target, and the

plurality of messages sent and received by the target only in response to an event on

the watch list;

wherein the eighth and ninth program instructions are stored in the computer

readable tangible storage device.

[Matsliach et al., column 3 lines 43-46, column 6 lines 31-46, and column 13 lines 45-

52]

Consider claim 44, as applied to claim 39. Matsliach et al. discloses a computer

program product further comprising:

tenth program instructions to configure the display to provide from the plurality of

times for signing in and signing out of the target, the average time signed on each day

of the target, and the plurality of messages sent and received by the target, a best time

to contact the target for a messaging session;

wherein the tenth program instructions are stored in the computer readable

tangible storage device.

[Matsliach et al., column 4 line 1]

Response to Arguments

10.   Applicant's arguments filed 28 September 2010 with respect to new claims 28,

33 and 39 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11.   **THIS ACTION IS MADE FINAL**. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any response to this Office Action should be faxed to (571) 273-8300 or mailed

to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

     Customer Service Window
     Randolph Building
     401 Dulany Street
     Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Mark Fearer whose telephone number is (571) 270-1770. The Examiner can normally be reached on Monday-Thursday from 7:30am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Tonia Dollinger can be reached on (571) 272-4170. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 571-272-4100.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

Mark Fearer
/M.D.F./
October 05, 2010

/PHUOC NGUYEN/

Primary Examiner, Art Unit 2443